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TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: September 19, 2017

SUBJECT: Report of the Task Force on Restraint and Seclusion

PURPOSE:

The purpose of this item is to present to the State Board the report of the Task Force on Restraint and Seclusion.

BACKGROUND:

In 2017, the Maryland General Assembly enacted Senate Bill 786 – Education – Restraint and Seclusion – Consideration and Reporting (2017 Md. Laws, Chap. 611). The legislation requires the Maryland State Department of Education (MSDE) to convene a Task Force on Restraint and Seclusion to consider the following:

- 1) The circumstances under which, and the schools or types of schools in which, restraint and seclusion shall be prohibited;
- 2) Contraindications for restraint and seclusion and who may authorize restraint and seclusion;
- 3) Definitions of “positive behavioral supports” and “behavior interventions and strategies plan,” and “trauma informed interventions”;
- 4) Training requirements for school staff regarding behavioral interventions;
- 5) Minimum requirements for policies and procedures to be developed by local school systems, state operated programs, and nonpublic schools; and
- 6) Standards for monitoring compliance by local school systems, State operated programs, and nonpublic schools.

EXECUTIVE SUMMARY:

The Task Force on Restraint and Seclusion convened in July, 2017. Members of the Task Force include representatives of local school systems, members of the advocacy community, representatives from non-public special education facilities, individuals with clinical expertise, a member of the Maryland State Senate, and a member of the Maryland House of Delegates.

The findings and recommendations of the Task Force are contained in the attached report. The Task Force reached two overarching conclusions as it pertains to COMAR 13A.08.04. First, the current regulatory framework should be maintained except in those areas where specific revisions have been recommended. Second, while some areas require regulatory enhancement, others can be addressed through additional guidance from the MSDE. The recommendations that are offered below capture the dynamic discussion of the Task Force members. As noted in Senate Bill 786, however, the submission of proposed regulations will require the MSDE to further review the structure and language of COMAR 13A.08.04 to ensure proper administration. The statute also creates a new reporting requirement for Maryland local education agencies.

The most significant recommendation of the Task Force involves the circumstances in which restraint and seclusion shall be prohibited. There was agreement that restraint and seclusion are crisis-oriented responses, but also concern that such responses may be used in lieu of less intrusive interventions once added to a behavioral intervention plan (BIP) or individualized education program (IEP). To avoid that result in the BIP or IEP, the Task Force recommends revising the regulation so that physical restraint and seclusion are prohibited in public agencies and nonpublic schools unless there is an emergency situation and such responses are necessary to protect a student or other person from imminent, serious, physical harm after less intrusive interventions have failed or been determined inappropriate.

The Task Force was also directed to consider special topics related to seclusion. These included: (1) the types of doors and locking mechanisms that may be used; (2) the safety of the rooms used for seclusion; (3) the requirements for observation of the rooms used for seclusion; (4) the period of time for the use of seclusion; and (5) the requirements for the discontinuation of seclusion. The Task Force made two specific recommendations. First, locking mechanisms must only be engaged when held in position by a person or, if electronically engaged, must automatically release if the building's fire alarm system is activated. Second, there must be a limit on the number of times seclusion is used per day/week, with multiple and repeated uses subject to further review.

With regard to policies and procedures and standards for monitoring compliance, the Task Force determined that guidance from the MSDE would be sufficient. Senate Bill 786 added its own provisions to assist the MSDE in monitoring restraint and seclusion.

Beginning in the 2018-2019 school year,

- 1) Each public agency and nonpublic school shall submit to the MSDE a report for the prior school year on the number of physical restraint and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement. (Ed. Art. § 7-1102.1)
- 2) Each public agency and nonpublic school shall submit to the MSDE a report for the prior school year on the professional development provided to designated school personnel related to positive behavior interventions, strategies, supports, and trauma-informed interventions.
- 3) Each public agency and nonpublic school shall:
 - I. Personally observe and review seclusion rooms;
 - II. Review training plans for the use of seclusion; and
 - III. Report to the Department regarding findings made under items (I) and (II).

Members of the State Board of Education
September 19, 2017

Each Maryland local education agency and nonpublic school must maintain this data for the 2017-2018 school year. The MSDE will request this data at the close of the 2017-2018 school year.

ACTION:

No Action. For information only.

Report of the Task Force on Restraint and Seclusion

**Presented by the
Maryland State Department of Education**

September 19, 2017

**Larry Hogan
Governor**

**Karen B. Salmon, Ph.D.
State Superintendent of Schools**



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Acknowledgements

This report is the result of hard work, valuable input, and commitment from many individuals in the public and nonpublic school sector in the State of Maryland (see the appendix for a full list of Restraint and Seclusion Task Force members). Each Task Force member was exceptionally generous with their time and supportive feedback. Their participation on the Restraint and Seclusion Task Force, along with their feedback and suggestions, was invaluable for the final recommendations. The completion, timeliness, and comprehensiveness of this report would not have been possible without their active participation and dedication.

Executive Summary

On May 25, 2017, Governor Hogan approved Senate Bill 786 (Chapter 611), establishing a Task Force on Restraint and Seclusion (Task Force). The Task Force was directed to consider a number of topics and report its findings and recommendations to the State Board of Education and General Assembly by October 1, 2017. In addition, the Maryland State Department of Education (MSDE) was directed to submit proposed regulations to the State Board by December 5, 2017. Because a regulatory framework governing restraint and seclusion already exists in COMAR 13A.08.04, the Task Force reviewed the current provisions while considering the following topics:

- (1) The circumstances under which, and the schools or types of schools in which, restraint and seclusion shall be prohibited;
- (2) Contraindications for restraint and seclusion and who may authorize restraint and seclusion;
- (3) Definitions of “positive behavioral supports,” “behavior interventions and strategies plan,” and “trauma-informed interventions”;
- (4) Training requirements for school staff regarding behavioral interventions, including the need to individualize behavioral interventions based on a student’s behavioral, medical, and psychological history and disability characteristics, and trauma-informed interventions;
- (5) Minimum requirements for policies and procedures to be developed by local school systems, State operated programs, and nonpublic schools; and
- (6) Standards for monitoring compliance by local school systems, State operated programs, and nonpublic schools.

The Task Force reached two overarching conclusions as it pertains to COMAR 13A.08.04. First, the current regulatory framework should be maintained except in those areas where specific revisions have been recommended. Second, while some areas require regulatory enhancement, others can be addressed through additional guidance from the MSDE. The recommendations that are offered below capture the dynamic discussion of the Task Force members. As noted in

Senate Bill 786, however, the submission of proposed regulations will require the MSDE to further review the structure and language of COMAR 13A.08.04 to ensure proper administration.

The most significant recommendation of the Task Force involves the circumstances in which restraint and seclusion shall be prohibited. There was agreement that restraint and seclusion are crisis-oriented responses, but also concern that such responses may be used in lieu of less intrusive interventions once added to a behavioral intervention plan (BIP) or individualized education program (IEP). To avoid that result in the BIP or IEP, the Task Force recommends revising the regulation so that physical restraint and seclusion are prohibited in public agencies and nonpublic schools unless there is an emergency situation and such responses are necessary to protect a student or other person from imminent, serious, physical harm after less intrusive interventions have failed or been determined inappropriate.

While the recommendation above denotes that restraint and seclusion should be used only as a last resort, it is also necessary to plan ahead for students who exhibit behaviors that are likely to cause harm to self or others – behaviors that could constitute an emergency situation. In those instances, the Student Support Team (SST) or IEP Team should convene to determine how to respond safely to the student’s behavior, and consider whether the risk of the targeted behavior outweighs the risk of restraint or seclusion. Thus, the Task Force recommends adding to the regulation a requirement that the SST or IEP Team must collaborate with appropriate clinicians in order to identify contraindications to the use of restraint or seclusion when planning for students with medical conditions or histories of trauma.

Several Task Force recommendations seek to refine the current regulation as it relates to definitions and training. Not only does the Task Force recommend adding a definition for “trauma-informed intervention,” but also would like to add it to the list of required training topics in the regulation. The Task Force further recommends aligning the definitions of restraint and seclusion with the United States Department of Education’s 2012 *Restraint and Seclusion: Resource Document* and requiring school personnel who utilize restraint and seclusion to complete an annual, State-approved training. Focusing on proper implementation, the Task Force recommends that restraint and seclusion must only be used by school personnel designated by an administrator and trained using an evidence-based program. Standardized training for seclusion is less common, so the Task Force recommends that the MSDE develop guidelines for the criteria of training in those instances.

The Task Force was also directed to consider special topics related to seclusion. These included: (1) the types of doors and locking mechanisms that may be used; (2) the safety of the rooms used for seclusion; (3) the requirements for observation of the rooms used for seclusion; (4) the period of time for the use of seclusion; and (5) the requirements for the discontinuation of seclusion. The Task Force made two specific recommendations. First, locking mechanisms must only be

engaged when held in position by a person or, if electronically engaged, must automatically release if the building's fire alarm system is activated. Second, there must be a limit on the number of times seclusion is used per day/week, with multiple and repeated uses subject to further review. The other considerations are generally addressed in the existing regulation.

With regard to policies and procedures and standards for monitoring compliance, the Task Force determined that guidance from the MSDE would be sufficient. Not only are these topics addressed in the current regulation, but also Senate Bill 786 added its own provisions to assist the MSDE in monitoring restraint and seclusion. Beginning with the 2018-2019 school year, each public agency and nonpublic school must submit to the MSDE a report on the number of physical restraint and seclusion incidents, disaggregated by student group, as well as professional development provided to school personnel. There is also required reporting on seclusion rooms and training, with MSDE guidance to follow on these topics.

DRAFT

Introduction

Restraint and seclusion are crisis-oriented responses to challenging student behaviors that are used in Maryland public agencies and nonpublic schools. According to COMAR, restraint is defined as the “use of a physical or mechanical restraint.” The specific definitions for physical and mechanical restraint follow:

“Physical restraint” means the use of physical force, without the use of any device or material that restricts the free movement of all or a portion of a student’s body. Physical restraint does not include: (i) briefly holding a student to calm or comfort the student; (ii) holding a student’s hand or arm to escort the student safely from one area to another; (iii) moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or (iv) intervening in a fight in accordance with Education Article § 7-307, Annotated Code of Maryland.

“Mechanical restraint” means any device or material attached or adjacent to the student’s body that restricts freedom of movement or normal access to any portion of the student’s body and that the student cannot easily remove. Mechanical restraint does not include a protective or stabilizing device.

According to COMAR, seclusion is defined as “the confinement of a student alone in a room from which the student is physically prevented from leaving.”

In 2003, the state of Maryland was one of the first states to enact restraint and seclusion regulations (COMAR 13A.08.04). In 2012, the United States Department of Education issued a document entitled, *Restraint and Seclusion: A Resource Document*, which outlined 15 principles for school personnel to consider when developing or revising policies and procedures on the use of restraint and seclusion. The MSDE issued guidance in 2014 referencing the Resource Document and clarifying COMAR regulations.

The Task Force met four times over the duration of one month to discuss and develop recommendations for the use of restraint and seclusion in Maryland’s public agencies and nonpublic schools. All meetings were held in accordance with the Open Meetings Act. Agendas, minutes, background memos, and additional resources are posted on a dedicated publically accessible webpage located at the following link: <http://marylandpublicschools.org/programs/Pages/TFRS/index.aspx>.

The Task Force meetings occurred on July 31, 2017, August 2, 2017, August 9, 2017, and August 16, 2017. All meetings were held at the MSDE. The meetings were staffed by the MSDE. Public observers were welcomed to attend each meeting and a time period was provided for public comment on each agenda.

Findings and Recommendations

To assist in developing findings and recommendations, Task Force members were provided with summaries of the current COMAR for each identified focus area in advance of the meeting at which that focus area was discussed.

It should be noted that restraint and seclusion are seen as last resort measures to be used only when a student's behavior is a risk to self or others. School personnel are strongly encouraged, and will continue to be encouraged, to use an array of behavior interventions, strategies, and supports to increase appropriate student behaviors and decrease inappropriate student behaviors (COMAR 13A.08.04.03A).

Prohibitions for Restraint and Seclusion

The Task Force was instructed to consider the circumstances under which, and the schools or types of schools in which, restraint and seclusion shall be prohibited. What follows in this section are the Task Force findings on the prohibition of restraint (both physical and mechanical), the prohibition of seclusion, and the proposed recommendation.

Findings

According to the current COMAR, school personnel can only use restraint or seclusion after less restrictive or alternative approaches have been considered and either attempted or determined to be inappropriate (COMAR 13A.08.04.03B(1)). If other approaches fail, or are determined to be inappropriate, restraint or seclusion, when used, must be used in a humane, safe, and effective manner, without intent to harm or create undue discomfort. In addition, it must be consistent with known medical or psychological limitations and the student's BIP (COMAR 13A.08.04.03B(2)).

In the COMAR, the use of physical restraint is prohibited in public agencies and nonpublic schools, except in three situations (COMAR 13A.08.04.05A (1)(a)):

1. Physical restraint may be used if there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
2. Physical restraint may be used if the student's behavioral intervention plan (BIP) or Individualized Education Program (IEP) describes the specific behaviors and circumstances in which physical restraint may be used; and
3. Physical restraint may be used if the parents of a nondisabled student have otherwise provided written consent to the use of physical restraint while a BIP is being developed.

In the event that physical restraint is used, there are specific requirements related to who is authorized to use it and how it can be implemented. With regard to who is authorized to implement restraint and seclusion, the COMAR states that physical restraint must only be applied by school personnel who are trained in its appropriate use (COMAR 13A.08.04.05A (1)(b)).

With regard to how it is implemented, the COMAR states that school personnel may only use reasonable force as is necessary to protect a student or other people (e.g., students, staff) from imminent, serious, physical harm (COMAR 13A.08.04.05A(1)(c)). More specifically, physical restraint must be removed as soon as the student is calm, and may not exceed 30 minutes (COMAR 13A.08.04.05A (1)(d)).

There are also certain restrictions on the use of physical restraint by school personnel. In applying physical restraint, school personnel may not: (1) place a student in a face down position; (2) place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or (3) straddle a student's torso (COMAR 13A.08.04.05A(1)(e)).

The use of mechanical restraint is likewise prohibited in public agencies and nonpublic schools, unless a public agency or nonpublic school is certified by, and meets the requirements of, the Joint Commission for the Accreditation of Health Care Organizations (COMAR 13A.08.04.05A(2)(a)). The use of a protective or stabilizing device by school personnel is not prohibited, however, if it is (1) prescribed by a health professional; or (2) for a student with a disability, used in accordance with the student's IEP or BIP (COMAR 13A.08.04.05A(2)(b)).

Just as with the prohibition of restraint, the use of seclusion is prohibited in public agencies and nonpublic schools, except in three situations (COMAR 13A.08.04.05B(1)):

1. Seclusion may be used if there is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;
2. Seclusion may be used if the student's IEP or BIP describes the specific behaviors and circumstances in which seclusion may be used; and
3. Seclusion may be used if the parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a BIP is being developed.

In the event that seclusion is used, there are specific requirements related to who is authorized to use it and how it is implemented. With regard to who it is authorized, seclusion must only be applied by school personnel trained in its appropriate use (COMAR 13A.08.04.05B(4)). With

regard to how it is implemented, school personnel must: (1) view a student placed in seclusion at all times; and (2) provide the student an explanation of the behavior that resulted in the removal and instructions on the behavior required to return to the learning environment (COMAR 13A.08.04.05B(3)). In addition, a seclusion event must: (1) be appropriate to the student's developmental level and severity of the behavior; (2) may not restrict the student's ability to communicate distress; and (3) may not exceed 30 minutes (COMAR 13A.08.04.05B(5)).

There are also certain restrictions concerning the room that is used for seclusion. At a minimum, a room for seclusion must: (1) be free of objects and fixtures with which a student could self-inflict bodily harm; (2) provide school personnel an adequate view of the student from an adjacent area; and (3) provide adequate lighting and ventilation (COMAR 13A.08.04.05B(2)).

Non-Prohibited Actions

It is important to note that the COMAR specifically indicates that the prohibitions for restraint and seclusion mentioned above do not prohibit: (1) school personnel from initiating appropriate student disciplinary actions pursuant to Education Article § 7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03 [these provisions collectively refer to suspension and expulsion, including removal procedures for students with disabilities]; or (2) law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures (COMAR 13A.08.04.03C).

Recommendations

Recommendation #1: The Task Force recommends that the MSDE continue to prohibit seclusion and restraint except in instances of “an emergency situation in order to protect the student or others from imminent serious physical harm” which is the language currently in the COMAR. The restraint and seclusion factsheet issued by the MSDE's Division of Special Education and Early Intervention Services which defines “imminent serious physical harm” (i.e., 18 U.S.C. 1365 (h)(3)) is a resource that can be used to apply to students with and without disabilities. The Task Force recommends that the MSDE consider revising the COMAR to eliminate language from the regulations allowing restraint or seclusion to be included on an IEP or behavior intervention plan, in order to avoid overuse of these crisis-oriented responses.

However, in instances where a student has a history of causing injury to self or others, the SST, for a student without a disability, or the IEP Team, for a student with disability, should meet to consider emergency planning for that individual student by determining what constitutes an

emergency, discussing emergency procedures, and reviewing contraindications for the student. The notes from the meetings should be captured in meeting minutes and as part of the student's educational record.

This Task Force recommendation represents a change from the current COMAR which permits seclusion and restraint in three instances: (1) an emergency situation where seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate; (2) the student's IEP or behavioral intervention plan which describes when seclusion or restraint may be used; and (3) the parents of a nondisabled student have otherwise provided written consent for the use of seclusion and restraint while a behavior intervention plan is being developed.

The Task Force members recommended that the MSDE consider developing guidance to assist public and nonpublic schools with effectively determining which situations are "emergency" situations that require the use of restraint and/or seclusion. This proposed recommended guidance would include the following: determining "emergency" situations; best practices in how to identify the appropriate responses to different school-based student behavioral emergencies, contraindications for restraint and seclusion, and examples and non-examples to guide schools with decision making. Such guidance, which would apply to students with and without disabilities, would ensure consistency of implementation of decision-making for restraint and seclusion for students across the State.



Contraindications for Restraint and Seclusion

The Task Force was instructed to consider contraindications for restraint and seclusion. What follows in this section are the Task Force findings on contraindications and the proposed recommendation.



Findings

Currently, the COMAR requires IEP Teams to consider medical, psychological, psychosocial and other factors when considering restraint and seclusion, but there is not sufficient guidance on the contraindications for the use of restraint and seclusion. However, research has indicated that there are certain practices currently used with restraint and seclusion that may have an adverse impact on a student's physical or psychological health. For example, certain holds used in restraint can result in positional asphyxia or cause other physical distress. In addition, students who have experienced trauma in their lives may be further traumatized by events that occur during a restraint or seclusion event.

Recommendations

Recommendation #2: In those instances where a student may have a history of injury to self or others and/or a student may have experienced significant personal trauma, the Task Force recommends that the MSDE consider inserting language into the COMAR to require that SSTs and IEP Teams, in collaboration with the appropriate school-based or community-based clinicians, identify the contraindications for the use of restraint and seclusion with a student, even in an emergency situation, based upon her or his medical and trauma history. The review of these contraindications should occur annually and should be captured in the minutes and as part of the student's educational record.

Authorization of Restraint and Seclusion

The Task Force was instructed to consider who can authorize restraint and seclusion. What follows in this section are the Task Force findings on the authorization of restraint and seclusion and the proposed recommendation.

Findings

The current process to authorize restraint or seclusion depends on whether the student has been identified as a student with a disability. The written consent of a parent is required to authorize the use of restraint or seclusion for both students with and without disabilities, except in the event of an emergency situation.

The current COMAR states that if restraint or seclusion is used for a student who has **not** been identified as a student with a disability, the student must immediately be referred to the school's pupil services team (e.g., SST) or an IEP Team (COMAR 13A.08.04.05C(1)). In that case, restraint or seclusion is authorized if the parents of the nondisabled student have provided written consent to the use of restraint or seclusion while a behavior intervention plan is being developed (COMAR 13A.08.04.05A(1)(a)(iii) and B(1)(c)).

In addition, if restraint or seclusion is used for a student with a disability, and the student's IEP or BIP does **not** include such use, the IEP Team must meet within 10 business days of the incident to consider: (1) the need for a functional behavioral assessment; (2) developing appropriate behavioral interventions; and (3) implementing a BIP COMAR 13A.08.04.05C(2). It is important to note that a recent amendment to Education Article § 8-405(f), effective July 1, 2017, requires that an IEP Team **must** obtain written consent from a parent of a student with a disability if it proposes to include restraint or seclusion in the IEP to address the student's behavior.

For students with disabilities, restraint or seclusion is authorized if the student’s IEP or BIP describes the specific behaviors and circumstances in which restraint or seclusion may be used (COMAR 13A.08.04.05A(1)(a)(ii) & B(1)(b)). The student’s IEP or BIP must also specify how often the IEP Team will meet to review or revise those documents, as appropriate (COMAR 13A.08.04.05C(3)). When an IEP Team meets to review or revise a student’s IEP or BIP, the IEP Team must consider: (1) existing health, physical, psychological, and psychosocial information; (2) information provided by the parent; (3) observations by teachers and related service providers; and (4) the student’s current placement (COMAR 13A.08.04.05C(4)).

Recommendations

Recommendation #3: The Task Force recommends that the MSDE consider amending the COMAR to require that restraint and seclusion be authorized only by school personnel who meet the following criteria: (1) designated by a school-based administrator to do so; and (2) have been trained using an approved, evidence-based program for restraint and seclusion.

In the case of restraint, the list of approved evidence-based programs shall be developed by the MSDE. In the case of seclusion, guidelines for training curricula may need to be developed because there are limited existing curricula for seclusion training.

Definitions Related to Restraint and Seclusion

The Task Force was instructed to consider definitions of restraint and seclusion and the terminology associated with it in the COMAR. What follows in this section are the Task Force findings on definitions related to restraint and seclusion and the proposed recommendations.

Findings

The Task Force considered terms already defined in various chapters of COMAR. For comparative purposes, definitions were also considered from the Governor’s Office for Children regulations, which apply to residential child care programs licensed by other agencies, namely the Department of Human Resources (DHR), Maryland Department of Health (MDH), and Department of Juvenile Services (DJS), and the United States Office of Civil Rights (OCR).

With regard to restraint and seclusion, public agencies and nonpublic schools are required to adopt a framework of positive behavioral supports to encourage appropriate social behaviors and to minimize the need for restraint and seclusion practices. In the COMAR, the term “positive behavior interventions, strategies, and supports” means the application of affirmative school-wide and individual student specific actions, instruction, and assistance to encourage educational success (COMAR 13A.08.04.02B(12)). In the context of residential child care, that

term means a therapeutic intervention that uses a broad range of systematic and individualized strategies for enhancing positive social and emotional results while preventing or reducing challenging behaviors (COMAR 14.31.06.03B(30)).

Likewise, public agencies and nonpublic schools are required to use behavior interventions and strategies plan to support students with challenging behaviors. In the COMAR, the term “behavior intervention plan” means a proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports (COMAR 13A.08.04.02B(1)). In the context of residential child care, that term means a plan that is based on the functional behavioral assessment, designed to address challenging behaviors through the use of positive behavioral interventions, strategies, and supports, developed by a human services professional, who has training and expertise in conducting a behavior functional assessment (COMAR 14.31.06.03B(2)).

The Task Force was also instructed to consider a definition for the term “trauma-informed interventions”. This was to ensure that the previous trauma experienced by students is recognized when considering the use of restraint and seclusion in order to avoid re-traumatization or exacerbation of responses to previous trauma. The term, “trauma-informed interventions” is not currently defined in the State Board of Education COMAR. However, it is defined in the context of residential child care. In that context, “trauma-informed care” means a person-centered approach which includes assessment, prevention of re-traumatization, and development and implementation of a safe environment plan. It is designed to reduce the risk of exposure, is strengths-based and resilience-focused, promotes respect, and supports cultural and developmental factors (COMAR 14.31.06.03B(43)). Specific examples of how this term is used in the context of the behavioral interventions, strategies, and supports in residential child care can be found in COMAR 14.31.06.15.

Recommendations

Recommendation #4: The Task Force recommends that the MSDE consider amending the COMAR definitions of restraint and seclusion to be consistent with the United States Department of Education definitions found in the 2012 document entitled, *Restraint and Seclusion: Resource Document*. Those are as follows:

- Seclusion—The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming;
- Physical Restraint—A personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The terms physical restraint does not include a physical escort. Physical escort means a temporary

- touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location; and
- **Mechanical Restraint**—The use of any device or equipment to restrict a student’s freedom of movement. This term does not include devices implemented by trained school personnel, or used by a student that has been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without the risk of harm.

Recommendation #5: The Task Force recommends that the MSDE consider amending the COMAR definition of “positive behavior supports” to the following: The systematic application of data-driven, school-wide, trauma-informed and individualized student actions, instruction, and assistance to promote positive social and emotional growth while preventing or reducing challenging behaviors in an effort to encourage educational and social emotional success.

Recommendation #6: The Task Force recommends that the MSDE consider amending the COMAR definition of “behavior interventions and strategies plan” to the following: a proactive, data-based systematic plan that is developed as a result of a functional behavioral assessment which is consistently applied by trained staff to reduce or eliminate a student’s challenging behaviors and to support the development of appropriate behaviors and responses.

Recommendation #7: The Task Force recommends that the MSDE consider inserting the following definition for “trauma-informed interventions” into the COMAR: An approach that is informed by the recognition of the impact that trauma, including violence, abuse, neglect, disaster, terrorism, and war, may have on a student’s physical and emotional health and ability to function effectively in an educational setting.

Training for Restraint and Seclusion

The Task Force was instructed to consider training requirements and the content of training for restraint and seclusion. What follows in this section are the Task Force findings on the training for restraint and seclusion, and the proposed recommendations.

Findings

The COMAR states that restraint and seclusion shall only be applied by school personnel who are trained in the appropriate use of restraint and seclusion (COMAR 13A.08.04.05). Further, it requires that each public agency and nonpublic school must provide professional development to designated school personnel on the appropriate implementation of policies and procedures developed to address: (1) a continuum of positive behavioral interventions, strategies, and supports for use by school personnel before restraint or seclusion; (2) the prevention of self-injurious behaviors; (3) methods for identifying and defusing potentially dangerous behavior; and (4) the use of restraint and seclusion (COMAR 13A.08.04.06C(1)).

In addition, at the beginning of each school year, according to COMAR, each public agency and nonpublic school must also identify the school personnel authorized to serve as a school-wide resource to assist in ensuring proper administration of restraint and seclusion (COMAR 13A.08.04.06C(2)). These individuals must receive training in current professionally accepted practices and standards regarding: (1) functional behavior assessment and behavior intervention planning; (2) restraint and alternatives to restraint; (3) seclusion; and (4) symptoms of physical distress and positional asphyxia (COMAR 13A.08.04.06C(3)). The professional development for these individuals must include a written examination and physical demonstration of proficiency in the described skills and competencies (COMAR 13A.08.04.06C(4)).

There is currently no COMAR that requires training in the individualization of behavioral interventions based on a student's behavioral, medical, and psychological history and disability characteristics; contraindication; or trauma-informed interventions. As long as the requirements above are met, there is no specific training program that each public agency and nonpublic school must engage in or no specific training protocol to follow.

Recommendations

Recommendation #8: The Task Force recommends that the MSDE consider amending regulation and providing guidance which requires all school-based staff who will be implementing restraint and seclusion to engage in state-approved training. Such training should be required to be supplemented with targeted professional development throughout the year.

Recommendation #9: The Task Force recommends that the MSDE consider amending regulation and providing guidance to require training in the following areas: de-escalation of student behaviors; trauma-informed interventions; student disability characteristics; CPR and first aid; tiered interventions for challenging student behaviors, including functional behavioral assessment and the development of individualized behavior plans; communicating with students

before, during, and after a restraint or seclusion event; contraindications of restraint and seclusion based on medical and trauma history; Maryland laws, regulations, and policies regarding restraint and seclusion; debriefing with students and staff after a restraint or seclusion event when clinically appropriate; and post-vention activities with students and staff to minimize the reoccurrence of a restraint or seclusion event.

Minimum Requirements for Policies and Procedures of Local School Systems and Nonpublic Schools

The Task Force was instructed to consider minimum requirements for policies and procedures of local school systems and nonpublic schools for restraint and seclusion. What follows in this section are the Task Force findings on the minimum requirements for policies and procedures of local school systems and nonpublic schools, and the proposed recommendations.

Findings

Currently in the COMAR, public agencies and nonpublic schools must meet three minimum requirements with respect to their policies and procedures on restraint and seclusion:

1. Each public agency and nonpublic school must develop policies to address the following topics: a continuum of positive behavioral interventions, strategies, and supports for use by school personnel before restraint or seclusion; the prevention of self-injurious behaviors; methods for identifying and defusing potentially dangerous behavior; the use of restraint consistent with Regulation .05A; and the use of seclusion consistent with Regulation .05B (COMAR 13A.08.04.06A);
2. Each public agency and nonpublic school must annually review the policies and procedures described above (COMAR 13A.08.04.06B); and
3. In connection with its annual review, each public agency and nonpublic school must provide its policies and procedures to school personnel and parents (COMAR 13A.08.04.06B). The regulation requires that this be done “as described in COMAR 13A.08.01,” but does not specify a particular provision within that chapter. COMAR 13A.08.01 addresses, among other things, guidelines for students’ responsibilities and rights, disciplinary action, arrests on school premises, and school use of reportable offenses.

Recommendations

Recommendation #10: In accordance with the legislation, it is recommended that the MSDE develop a state-level data collection system for restraint and seclusion events and guidance for the documentation of restraint and seclusion, disaggregated by the student’s jurisdiction, disability, race, gender, age, and type of placement.

Recommendation #11: In accordance with the legislation, it is recommended that the MSDE develop a specific state-level data collection system for seclusion events and guidance for the documentation of seclusion that includes a requirement to observe and review seclusion rooms and to review training plans for the use of seclusion.

Considerations for Seclusion

The Task Force was instructed to consider factors for seclusion, such as types of doors and locks, safety of rooms, requirements for observation. What follows in this section are the Task Force findings on the considerations for seclusion, and the proposed recommendations.

Findings

COMAR 13A.08.04 does not address the types of doors and locking mechanisms that may be used in a seclusion room. With respect to the safety of the rooms used for seclusion, the COMAR states that at a minimum, a room must: (1) be free of objects and fixtures with which a student could self-inflict bodily harm; (2) provide school personnel an adequate view of the student from an adjacent area; and (3) provide adequate lighting and ventilation (COMAR 13A.08.04.05B(2)(a)).

Currently in the COMAR, with respect to observation of the room used for seclusion, school personnel must view a student placed in seclusion at all times (COMAR 13A.08.04.05B(3)(a)). A seclusion event may not restrict a student's ability to communicate distress (COMAR 13A.08.04.05B(5)(b)). Additionally, according to COMAR, a seclusion event may not exceed 30 minutes (COMAR 13A.08.04.05B(5)(c)). Moreover, a seclusion event must be appropriate to the student's developmental level and severity of the behavior (COMAR 13A.08.04.05B(5)(a)). Also, currently in the COMAR is a provision which states that school personnel must provide a student placed in seclusion with an explanation of the behavior that resulted in seclusion and instructions on the behavior required to return to the learning environment (COMAR 13A.08.04.05B(3)(b)).

Recommendations

Recommendation #12: The Task Force recommends that the MSDE consider amending the COMAR to limit the number and amount of time that seclusion events can occur per student per day and per week. Multiple and repeated use of seclusion for the same student within the same day/week should lead to a review of the events, the appropriateness of the events, a review and revision of behavioral strategies currently in place to address the student's behaviors, and a plan for how staff will prompt the development of appropriate replacement behaviors for the student.

Recommendation #13: The Task Force recommends that the MSDE consider inserting language into the COMAR that states that seclusion room doors may not be fitted with a lock unless it meets the following criteria: (1) It is a self-releasing latch that releases automatically if not physically held in the locked position by an individual on the outside of the door; (2) It cannot be locked and engaged by leverage of an inanimate object or in any manner except by constant human contact; and (3) For locking mechanism that draw on power, the lock must automatically disengage and release upon activation of the fire alarm or in the event of power failure.

Recommendation #14: The Task Force recommends that the MSDE consider amending the COMAR to require that two individuals, (e.g., an administrator /administrator designee and a school-based student service staff member or clinical staff person such as a school psychologist, school counselor, licensed clinical professional counselor, clinical psychologist, social worker, etc.) initiate, monitor, and supervise the seclusion event. Those implementing seclusion should be trained using criteria established through MSDE guidance. Further, it is recommended that the staff persons engage in a debriefing process after each use of restraint and seclusion to consider the events that led up to the event, the impact on the student, the impact on staff, and plans for addressing the student's behaviors in the future, and any changes in the student's BIP that may need to occur to manage inappropriate behaviors and encourage the development of appropriate behaviors.

Standards for Monitoring Compliance by Local School Systems, State Operated Programs, and Nonpublic Schools

The Task Force was instructed to consider compliance for restraint and seclusion. What follows in this section are the Task Force findings on standards for monitoring compliance by local school systems, state operated programs, and nonpublic schools, and the proposed recommendation.

Findings

According to COMAR, each time a student is in a restraint, school personnel must document the following: (1) other less intrusive interventions that have failed or been determined inappropriate; (2) the precipitating event immediately preceding the behavior that prompted the use of restraint; (3) the behavior that prompted the use of a restraint; (4) the names of the school personnel who observed the behavior that prompted the use of restraint; and (5) the names and signatures of the staff members implementing and monitoring the use of restraint (COMAR 13A.08.04.05A(3)(a)). The same items are required to be documented each time a student is placed in seclusion, except for the names of the school personnel who observed the behavior (COMAR 13A.08.04.05B(6)(a)).

In addition, documentation must include a description of the restraint or seclusion event. For restraint, this includes: (1) the type of restraint; (2) the length of time in restraint; (3) the student's behavior and reaction during the restraint; and (4) the name and signature of the administrator informed of the use of restraint (COMAR 13A.08.04.05A(3)(b)). For seclusion, this includes: (1) justification for initiating the use of seclusion; (2) the length of time in seclusion; (3) the student's behavior and reaction during the seclusion; and (4) the name and signature of the administrator informed of the use of seclusion (COMAR 13A.08.04.05B(6)(b)).

For both restraint and seclusion, this documentation must be maintained in the student's educational record and be available for inspection by the student's parent or legal guardian (COMAR 13A.08.04.05A(4) & B(7)). Unless otherwise provided for in the BIP or IEP, each time restraint or seclusion is used, school personnel must provide the student's parent with verbal notification or send written notice within 24 hours (COMAR 13A.08.04.05A(5) & B(8)).

With regard to compliance, the COMAR states that each public agency and nonpublic school must develop policies and procedures on: (1) monitoring the use of restraint and seclusion; and (2) receiving and investigating complaints regarding restraint and seclusion practices (COMAR 13A.08.04.06D(1)). The COMAR is not prescriptive as to what the monitoring and complaint processes must entail.

The MSDE is also authorized to monitor and request any information regarding any matter related to restraint or seclusion implemented by a public agency or nonpublic school. In exercising that authority, the MSDE must provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request (COMAR 13A.08.04.06D(2)).

Recommendations

Recommendation #15: In accordance with the legislation, it is recommended that the MSDE consider inserting language into COMAR, and providing guidance, which explains what the monitoring and compliance processes must entail for public agencies and nonpublic schools.

Summary of Recommendations

In May 2017, Governor Hogan signed Senate Bill 786 (Chapter 611) into law which established a Task Force for Restraint and Seclusion (Task Force). Under the provisions of the legislation, the Task Force was directed to study considerations and reporting for Restraint and Seclusion. Findings and recommendations of the Task Force were to be reported to the State Board of Education and General Assembly by October 1, 2017. Any proposed changes in Code of Maryland (COMAR) regulations were to be shared with the State Board of Education by December 1, 2017.

There is an existing regulatory framework for restraint and seclusion (COMAR 13A.08.04). The Task Force considered each element of the COMAR as requested by the legislation and made recommendations to consider updating COMAR in the areas of prohibition of restraint and seclusion, authorization of restraint and seclusion, and training in restraint and seclusion for example. In addition, the Task Force recommended that language be included in COMAR to further clarify the parameters of restraint and seclusion, such as in training content, a definition for trauma-informed interventions, contraindications, and factors for seclusion.

It is also recommended that the MSDE, in accordance with the legislation, develop a state-wide data collection system to monitor the effective implementation of policies and procedures and to monitor compliance.

Appendix

Members of the Restraint and Seclusion Task Force

The Restraint and Seclusion Task Force was comprised of 29 members from Maryland public schools, nonpublic schools, and the Maryland State Department of Education (MSDE). The Task Force was co-chaired by Mary Gable, Assistant Superintendent of the Division of Student, Family, and School Support and Academic Policy and Deborah Nelson, Section Chief for School Safety and Climate and Specialist for School Psychological Services.

The list of members of the Task Force is below:

Name	Title	LEA/Organization
Trinell Bowman	Executive Director of Special Education	Prince Georges County Public Schools
Yolanda Brown	School Director	New Visions Academy
Jodi Chesman	Behavior Support Teacher and Crisis Training Coordinator	Montgomery County Public Schools
Albert Chichester	Complaint Investigator	MSDE, Division of Special Education and Early Intervention Services
Damion Crawford	Education Specialist, PRIDE Program	Baltimore City Public Schools
Lynn Davis	Director	Child Advocacy Center, Frederick County
Lauren Grimes	Director of Network and Peer Services	On Our Own of Maryland
Robert Harrell	Director of Behavioral Services	Kennedy Krieger School Programs
Sylvia Lawson	Chief Performance Officer	MSDE
Amy Leishear	Behavior Specialist	Anne Arundel County Public Schools
Neal Lichter	Resource Center Coordinator	Pathfinders for Autism
Leslie Seid Margolis	Managing Attorney	Disability Rights Maryland
Michael McGrew	School Psychologist	Carroll County Public Schools

Julie Mika	Special Educator, Extensions Program, Col. E. Brooke Lee Middle School	Montgomery County Public Schools
Michael Muempfer	Lead Specialist for Student Behavior and School Climate	MSDE
Lynne Muller	Section Chief, Student Services and School Counseling	MSDE
Courtney Oatts	School Psychologist	Baltimore City Public Schools
Aaron Parsons	Vice President, K-12 School Programs	Kennedy Krieger Institute
Jennifer Jeffrey-Pearsall	Positive Behavior Intervention Support (PBIS) Maryland Coordinator	Mid-Atlantic PBIS Network
Kim Pogue	Principal	Alfred D. Noyes Children's Center, Juvenile Services Education
Tea Purnell	Youth Advocate	On Our Own of Maryland
Carol Quirk	Executive Director	Maryland Center for Inclusive Education
Rebecca Rider	Director of Special Education	Baltimore County Public Schools
David Ring	Behavior Specialist	Calvert County Public Schools
Jimmie Robinson III	Special Educator	REACH Partnership School
Gabriel Rose	Director, Pupil Transportation/Emergency Management Office	MSDE
Walter Sallee	Executive Director, Student Services and Strategic Planning	MSDE
Jillian Storms	Capital Construction Architect, School Facilities Branch	MSDE
Michal Thorton	Community Health Nurse Supervisor, School Health Services Coordinator	Baltimore City Health Department
Jonathan Turner	Lead Specialist, School Counseling	MSDE
Jheanelle Wilkins	Delegate	General Assembly of Maryland
Craig Zucker	Senator	General Assembly of Maryland

Maryland State Department of Education

**Task Force on Restraint and Seclusion
Summary of Findings and Recommendations
Maryland State Board of Education
September 19, 2017**

Requirements of Senate Bill 786 (2017)/Chapter 611:

The Task Force on Restraint and Seclusion shall consider:

1. The circumstances under which, and the schools or types of schools in which, restraint and seclusion shall be prohibited;
2. Contraindications for restraint and seclusion and who may authorize restraint and seclusion;
3. Definitions of “positive behavioral supports”, “behavior interventions”, and “trauma informed interventions”;
4. Training requirements for school staff regarding behavioral interventions;
5. Minimum requirements for policies and procedures to be developed by local school systems, state operated programs, and nonpublic schools; and
6. Standards for monitoring compliance by local school systems, State operated programs, and nonpublic schools.

Deliverables:

Report to the Maryland State Board of Education and the Maryland General Assembly

- Findings and recommendations
- Determination of circumstances in which seclusion may be used
 - ❖ Types of doors and locking mechanisms
 - ❖ Safety of rooms used for seclusion
 - ❖ Requirements for observation
 - ❖ Period of time for the use of seclusion
 - ❖ Requirements for discontinuation of seclusion
 - ❖ Changes that are needed to update regulations

October 1,
2017

Proposed regulations for the State Board

December 1,
2017
(Extended to
December 5,
2017)

Main Findings

- The current Code of Maryland Regulations (COMAR) framework for restraint and seclusion should be maintained, except where recommendations are being proposed.
- Some areas require regulatory enhancement and others can be addressed through additional guidance from the MSDE.

Selected Proposed Recommendations

- Physical restraint and seclusion should be prohibited unless necessary to protect a student or others from imminent, serious harm after less intrusive interventions have failed. This would eliminate language generally allowing inclusion on an Individualized Education Program (IEP) or Behavior Intervention Plan (BIP), in order to avoid overuse of these crisis-oriented responses.
- Student Support Teams and IEP teams should consider options, contraindications, and trauma history with appropriate school-based clinical staff and clinicians when there is a need to plan ahead.
- A definition for “trauma-informed interventions” should be included in COMAR and added to required training topics.
- Restraint and seclusion should only be used by designated school personnel, appropriately trained.

Selected Recommendations (cont'd)

- At least two staff (an administrator or designee and a school-based clinician or other clinical staff) should observe seclusion events.
- Seclusion doors and locks should be designed so that
 - the lock only engages when held in place by a person, and
 - the lock automatically releases when the fire alarm system is activated.
- Monitoring and compliance should be addressed through MSDE guidance and by implementing the reporting requirements in SB 786.

Next Steps

- Review COMAR 13A.04.08.
- Continue consultation with Task Force members.
- Present proposed regulations to State Board on December 5, 2017.
- Collect data on incidents of restraint and seclusion, professional development, and observation of seclusion rooms.